



GEORGE H. BARBOUR  
COMMISSIONER  
NEWARK, N.J.

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MAR 22 1978 STATE OF NEW JERSEY  
DEPARTMENT OF PUBLIC UTILITIES

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March 15, 1978

Federal Communications Commission  
Office of the Secretary

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Mr. William J. Tricarico, Secretary  
Federal Communications Commission  
Washington, D. C. 20554

COMMON CARRIER BUREAU

MAR 24 1978

Re: Regulation by the State of  
New Jersey of Rates, Terms  
and Conditions for Pole  
Attachments

TARIFFS AND SERVICES  
DIVISION


Dear Mr. Tricarico:

Please accept this letter as certification by the State of New Jersey that said State regulates the rates, terms, and conditions for pole attachments as between cable television companies and public utility companies. In so regulating such rates, terms, and conditions, the State of New Jersey has the authority to and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

This letter is submitted pursuant to Section 224 of the Communications Act, 17 U.S.C. 224, as amended.

Should you desire further information, please contact me.

Very truly yours,

  
George H. Barbour  
President

cc: Common Carrier Bureau  
Attention: James Blaszk, Esq.

Cable Television Bureau

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

May 3, 1985

IN REPLY REFER TO:

New Jersey Board of Public Utilities  
1100 Raymond Boulevard  
Newark, New Jersey 07102  
Attn: Bernard R. Morris, Director

Gentlemen:

The Commission is again updating its list of states which have certified that they regulate pole attachment rates, terms, and conditions to insure that all certifications comply with amended Section 1.1414 of the Commission's Rules, 47 C.F.R. §1.1414. That Section was recently amended to implement certain provisions of the Cable Communications Policy Act of 1984. Report and Order in MM Docket No. 84-1296, FCC 85-179 (released April 19, 1985). Among the amendments is new Section 1.1414(a)(3), 47 C.F.R. §1.1414(a)(3), which provides that a state regulating pole attachments must certify to this Commission that

It has issued and made effective rules and regulations implementing the state's regulatory authority over pole attachments (including a specific methodology for such regulation which has been made publicly available in the state) . . . .

With the exception of a statement about methodology, your certification already includes all of the required information. Accordingly, if your state's rules and regulations include a specific methodology which has been made publicly available in the state, please so certify to the Commission by May 30, 1985.

Receipt of such information by May 30, 1985, will permit the Commission to retain your state on our certification list. Therefore, your prompt attention and cooperation are appreciated.

Please address your certification and any inquiries to:

Federal Communications Commission  
Attention: Margaret Wood, Esq.  
Room 6206  
1919 M Street, N.W.  
Washington, D.C. 20554  
Telephone (202) 632-4890

Sincerely,



Howard M. Wilchins  
Deputy Chief, Enforcement Division

Enclosure

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations was amended to read as follows:

A. Part 1 - Practice and Procedure.

1. Section 1.1414 is amended by revising paragraphs (a)(1) and (a)(2) and adding new paragraphs (a)(3) and (e) to read as follows:

§1.1414 State certification.

- (a) If the Commission does not receive certification from a state that:
- (1) It regulates rates, terms and conditions for pole attachments;
  - (2) In so regulating such rates, terms and conditions, the state has the authority to consider and does consider the interests of the subscribers of cable television services as well as the interests of the consumers of the utility services; and,
  - (3) It has issued and made effective rules and regulations implementing the state's regulatory authority over pole attachments (including a specific methodology for such regulation which has been made publicly available in the state), it will be rebuttably presumed that the state is not regulating pole attachments.

\* \* \* \* \*

- (e) Notwithstanding any such certification, jurisdiction will revert to this Commission with respect to any individual matter, unless the state takes final action on a complaint regarding such matter:
- (1) within 180 days after the complaint is filed with the state, or
  - (2) within the applicable periods prescribed for such final action in such rules and regulations of the state, if the prescribed period does not extend beyond 360 days after the filing of such complaint.

## **14:18-2.2**

## **REGULATIONS OF CABLE TELEVISION**

(c) Each CATV company shall make reasonable efforts to protect the public and its property from injury or damage and shall execute due care to reduce hazards to which employees, customers or the general public may be subjected by reasons of its equipment or facilities.

(d) Every CATV company shall file with the Board, in association with its application for approval of municipal consent, a schedule of construction of its facilities. This schedule shall require significant completion of construction within one year of receipt of both the certificate of approval and the certificate of compliance.

## **14:18-2.2    Inspection of work performed by contractors**

To the extent necessary to assure compliance with safe practices, any construction work performed for a CATV company by contractors shall be inspected by a qualified representative of the CATV company before being placed in active service.

## **14:18-2.3    Construction in existing utility rights-of-way**

(a) Where practicable, every cable television company shall use existing electric and/or telephone utility rights-of-way and facilities.

(b) In areas which are presently being provided with overhead utility service or which this Board has designated as areas which may, in the future, be provided with overhead utility service, each CATV company wishing to serve therein may make arrangements with the utility or utilities owning the existing poles or structures for the joint use of these facilities.

(c) In areas where electric and telephone utility distribution facilities are underground or are required by the Board to be placed underground, each CATV company wishing to provide service therein shall be required to install its cable underground.

## **14:18-2.4    Identification of property; buildings and structures**

Each group of buildings or structures shall be provided with a sign or suitable marking displaying the name of the operating cable television company.

## **14:18-2.5    Identification of property; poles or structures supporting wires or cables**

(a) Each CATV company owning solely or jointly (with a utility) poles or structures supporting wires or cables along or over public highways shall properly mark each such pole or structure with the initials of its name, abbreviation of its name, corporate symbol or other distinguishing mark or

## NEW JERSEY ADMINISTRATIVE CODE

14:18-2.7

code by which ownership may be readily and definitely ascertained and with number or symbol or both by which the location of each such pole or structure may be determined on office records:

1. Such markings may be made with paint, brand or with a soft metal plate and the characters of the mark shall be of such size and so spaced and hereafter maintained as to be easily read.

2. In the case of joint ownership of any such structure by a CATV company and one or more utilities, the distinguishing mark or number of each owner shall be placed thereon. The numbering may be in accordance with a code which will indicate joint ownership.

3. In the case of such structures erected upon private rights-of-way or on public highways, of such character that the construction may be deemed to be a through or transmission truck line, such mark need be affixed only to every fifth structure, provided, however, that each and every structure situated within the limits of any "built-up" community shall be marked.

4. The requirements herein shall apply to all existing and future structures erected and to all changes in ownership and name.

5. Every such CATV company shall have available a statement showing:

- i. The initials, abbreviations of name, corporate symbol or distinguishing mark;
- ii. The means of the marking employed;
- iii. The method followed in numbering structures, to wit, within the limits of cities, towns or other built-up communities, and upon through or transmission trunk lines.

6. Each CATV company should make reasonable efforts to prevent the placing upon its poles of any marks, signs, placards, bulletins, notices or any other foreign object other than as provided in N.J.S.A. 27:5-1.

### 14:18-2.6 Maintenance of plant, equipment and facilities

Every cable television company shall have and maintain its entire plant in such condition as will enable it to provide adequate, economical and efficient cable television service.

### 14:18-2.7 Inspection of property

(a) Each CATV company shall inspect its equipment and facilities at sufficiently frequent intervals to disclose conditions, if existing, which would interfere with efficient service and shall promptly take corrective action where conditions disclosed by such inspection so warrant.

## **CHAPTER 17**

### **RULES OF PRACTICE AND PROCEDURE OF THE OFFICE OF CABLE TELEVISION**

#### **Authority**

Unless otherwise expressly noted, all provisions of this Chapter 17 were adopted by the Board of Public Utility Commissioners, pursuant to authority delegated at N.J.S.A. 48:5A-1 *et seq.*, and were filed and became effective April 27, 1973, as R.1973 d.117. See: 5 N.J.R. 54(d), 5 N.J.R. 200(a).

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### SUBCHAPTER 1. GENERAL PROVISIONS

#### 14:17-1.1 Scope of rules

These rules shall govern practice and procedure before the Office of Cable Television within the Department of Public Utilities of the State of New Jersey.

**14:17-1.2 Construction and amendment**

(a) These rules shall be liberally construed to permit the Office to effectively carry out its statutory functions and to secure just and expeditious determination of issues properly presented to the Office.

(b) In special cases and for good cause shown, the Office with the concurrence of the Board may relax or permit deviations from these rules.

(c) The rules may be amended by the Office with the approval of the Board.

**14:17-1.3 Definitions**

The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Board" means the Board of Public Utility Commissioners of New Jersey.

"Certificate" means a certificate of approval issued by the Board pursuant to the provisions of N.J.S.A. 48:5A-1 *et seq.*

"Commissioner" means a member of the Board of Public Utility Commissioners.

"Director" means the Director of the Office of Cable Television.

"Office" means the Office of Cable Television.

"Presiding Officer" means and shall include any member of the Board of Office or hearing examiner duly designated as such who may conduct any hearing within or on behalf of the Director or Office of Cable Television.

"Secretary" means and shall include the Secretary, Assistant Secretary to the Board or any other person duly authorized to act in such capacity by the Board.

**14:17-1.4 Offices**

The Office of Cable Television is located at 101 Commerce Street in Newark, New Jersey.

**14:17-1.5 Hours**

The Office is open on weekdays from 9:00 A.M. to 5:00 P.M., unless otherwise authorized by the Board. The Office is closed legal holidays, Saturdays and Sundays.

**14:17-1.6 Sessions**

The Office will be in continuous session for the performance of administrative duties. Hearings will be held on such days, at such hours and

at such places as the Office with the concurrence of the Board may from time to time designate.

**14:17-1.7 Communications**

(a) All formal papers and correspondence should be addressed to the Office of Cable Television, Board of Public Utility Commissioners, 101 Commerce Street, Newark, New Jersey 07102, and not to individual members of the Office's staff unless otherwise specifically authorized or directed by the Board or the Office.

(b) All such papers and correspondence shall be deemed to be officially received when delivered at the Office at 101 Commerce Street, Newark, New Jersey, 07102, but the Director, a Commissioner, the Secretary or an Assistant Secretary of the Board may in his discretion receive papers and correspondence for filing.

**14:17-1.8 Official records**

(a) The Secretary shall have custody of the Board's seal and its official records, including the minutes of all action taken by the Board.

(b) Copies of rules and regulations and orders and decisions of the Board will be furnished by the Secretary upon payment of appropriate fees.

(c) The Chairman of the Cable Television Advisory Council shall have custody of the Council's official records, including the minutes of all meetings held.

**14:17-1.9 Radio, television, photographs and sketches**

(a) Proceedings before the Board or Office shall be conducted with fitting dignity and decorum.

(b) The taking of photographs, or the making of sketches of the hearing room or any person in it or the broadcasting of proceedings by radio or television shall not be permitted.

(c) Nothing herein contained shall be construed to limit the free access to all public hearings by duly accredited members of the press, who shall be provided suitable facilities for the performance of their duties in reporting the proceeding.

(d) Neither shall anything herein contained be construed to preclude the use of sound recording devices for the purpose of making the official transcript of the proceeding before the Board or Office by the reporter so designated for that purpose.

## **14:17-2.1**

## **RULES OF CABLE TELEVISION**

### **SUBCHAPTER 2. FEES AND CHARGES**

#### **14:17-2.1 Amount of fees and charges**

(a) The fee required to defray administrative expenses of hearings held pursuant to N.J.S.A. 48:5A-1 *et seq.*, where applicable, shall be \$50.00 per day of hearing or portion thereof, to be paid by the petitioner or other moving party. In the event of a dispute as to who shall pay the fee the presiding officer shall submit a recommendation to the Director which shall be accepted, rejected or modified by the Director. In any event, the Director shall make the final determination. Copies of the presiding officer's recommendation shall be served upon all parties to the proceeding who shall have five days in which to file and serve and answer.

(b) All other fees and charges which the Office has been empowered, authorized and required by law to charge and collect are set forth in N.J.S.A. 48:5A-1 *et seq.* or Chapter 73, P. L. 1963.

#### **14:17-2.2 Payment of fees and charges**

(a) No petition, report, notice, document or other paper will be accepted for filing, and no request for copies of any forms, pamphlets, documents or other papers will be granted, nor action taken by the Board or the Office unless such filings and request are accompanied by the required fees or charges, as provided by law and these rules.

(b) All checks for payment of such fees and charges shall be made payable to the order of "Treasurer, State of New Jersey" and delivered or mailed to the Director of the Office, 101 Commerce Street, Newark, New Jersey 07102.

### **SUBCHAPTER 3. APPEARANCE AND PRACTICE BEFORE THE BOARD OR OFFICE**

#### **14:17-3.1 Rights of parties**

(a) At any hearing the parties named in Subchapter 4 (Parties) of this Chapter who are affected by the proceeding shall be entitled to enter an appearance personally as provided for in Section 2 (Appearances) of this Subchapter; to introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the conduct of the proceeding.

(b) In all instances where another cable television company or utility that has received individual notice of a proceeding intends to enter an appearance, it shall file with the Board through the Office and serve on the petitioner, at least five days before a hearing, a written notice of its intention to appear and it shall include in the written notice a brief statement of the reason for the appearance.

**14:17-3.2 Appearances**

(a) No person or party as defined in Subchapter 4 (Parties) of this Chapter except an individual appearing in his own behalf, shall be permitted to participate in any proceeding before the Board or Office unless such person or party is represented by an attorney of this State in good standing who is domiciled in this State. Any attorney or counsellor from any other jurisdiction, of good standing there, may, at the discretion of the Board or Office be admitted, *pro hac vice*, to participate in a proceeding in the same manner as an attorney of this State, provided however, that all pleadings, briefs and other papers filed with the Board through the Office shall be signed by an attorney or record authorized to practice in this State who shall be held responsible for them and who shall be present at all times during the proceedings unless excused by the Presiding Officer. (In accordance with Supreme Court Rule 1:12-8).

(b) Any attorney wishing to withdraw from a proceeding before the Board or Office shall, in writing, immediately notify the Board or Office or the Presiding Officer, the party whom he represents, and all other parties of record.

(c) Any person appearing before or transacting business with the Board or Office in a representative capacity may be required by the Board or Office or the Presiding Officer to file evidence of his authority to act in such capacity.

**14:17-3.3 Ethical conduct required**

(a) All attorneys appearing in proceedings before the Board or Office in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of the State of New Jersey.

(b) If any such attorney does not conform to such standards to Board or Office may decline to permit such attorney to appear in a representative capacity in any proceeding before the Board or Office.

**14:17-3.4 Former employees**

No former employee shall represent any person or party in any matter pending at the date of his termination before the agency in which the employee held office or employment for a period of six months following his termination of employment.

**14:17-3.5 Permitted representation**

(a) An employee shall not be prohibited from representing himself or any person or party in any matters concerning:

## 14:17-4.1

## RULES OF CABLE TELEVISION

1. His own interest in real property;
2. Workmen's compensation claims;
3. Transfer inheritance or estate taxes proceedings before the Division of Tax Appeals;
4. Filing of corporate or other documents with the Secretary of State;
5. Proceedings before the Division of Civil Rights;
6. Proceedings before the Board of Mediation or the New Jersey Employment Relations Commission;
7. Proceeding on behalf of a county, municipality, or school district. This exemption does not apply where the State is an adverse party, and providing the employee is holding any office or employment in the State agency in which any proceeding is pending;
8. Any court of record in this State.

## SUBCHAPTER 4. PARTIES

### 14:17-4.1 Person or party

"Person" or "party" when used in these rules means an individual, corporation, partnership, association, group of persons or organizations, or any body politic, political subdivision or governmental instrumentality.

### 14:17-4.2 Classification of parties

(a) Parties to proceedings before the Board or Office shall be styled according to the relationship of the parties thereto as follows:

1. Petitioners: Parties applying to invoke the jurisdiction of the Board or Office;
2. Respondents: Parties against whom any petition is filed or investigation is started;
3. Intervenors: Parties to the proceeding other than the above who are permitted by the Board or Office to intervene.

### 14:17-4.3 Designation of other than parties

Persons opposing petitions or tariff schedules filed by cable television companies shall be styled "objectors" unless permitted to intervene.

**SUBCHAPTER 5. PLEADINGS GENERALLY****14:17-5.1 Pleadings enumerated and defined**

(a) Pleadings before the Board or Office shall be petitions, answers, replies and motions which for purposes of these rules are defined as follows:

1. Petition: The pleading filed to initiate a proceeding invoking the jurisdiction of the Board or Office;

2. Answer: The pleading filed by a respondent or other party against when a petition is directed or who is affected by the filing of a petition;

3. Reply: The pleading filed by the petitioner or others in response to an answer;

4 Motion: The pleading filed, incidental to an action before the Board or Office, for the purpose of obtaining a rule or order directing that some action be taken in favor of the movant;

5. Where appropriate, pleadings not specified above may bear the appropriate designation.

**14:17-5.2 Formal requirements for pleadings**

(a) Pleadings and other papers filed under these rules shall be prepared on letter size (approximately 8½ by 11 inches) paper of customary weight and quality.

(b) All pleadings must be signed in ink by the attorneys of record, if any. When a firm are attorneys of record, signature shall be in the name of the firm followed by the signature of the partner or associate acting for it. When a party is authorized to act in his own behalf under those rules, signature shall be by the party. Beneath the signature of every attorney of record, party or other person appearing on a paper to be filed, there shall be typed, stamped or printed his name and address.

(c) There shall be included at the head of the pleading or on a title page a caption setting forth the name of the Board and Office the title of the action, the docket number, if known, and a designation as petition or the like. Case titles must be brief and concise.

(d) The title of the action shall include the exact names of all parties. The first pleading of any party shall state his address and if the party is a corporation, association or other organized group, there shall also be set forth the state in, and the law under which the party was incorporated or organized.

(e) The first pleading filed by or on behalf of any party shall state the name, title and address of the person to whom correspondence or communications in the cause are to be addressed. Notices, decisions orders and other papers may be served on the person so named and such service shall be deemed service upon such party.



### **14:17-5.3**

### **RULES OF CABLE TELEVISION**

(f) All balance sheets, income statements and journal entries must conform to the applicable Uniform System of Accounts.

### **14:17-5.3 Number of copies**

(a) Unless otherwise required by the Board or Office, there shall be filed with the Board through the Office for its own use an original and three conformed copies of each pleading or other paper and amendment thereof.

(b) Where a pleading originating a proceeding is filed by a party other than a cable television company subject to the jurisdiction of the Office, one additional conformed copy shall be filed for each respondent named therein, for service by the Secretary in accordance with the provisions of Section 6 (Service and notice of proceedings), of this Subchapter.

### **14:17-5.4 Defective pleadings**

(a) Pleadings will be liberally construed with the view to effect justice and the Office may disregard errors or defects in pleadings which do not affect the substantial rights of the parties.

(b) However, if the defect in a pleading prejudices a substantial right of any party the Board or Office may, on notice, strike the pleading or take such other action as it deems appropriate.

### **14:17-5.5 Amendments**

The Office may in its discretion before or after the conclusion of the hearing allow any pleadings to be amended or corrected or any commission therein to be supplied upon such terms as may be lawful and just, provided such amendment, correction or addition does not prejudice a substantial right of any party.

### **14:17-5.6 Service and notice of proceedings**

(a) Unless otherwise provided for by statute or in these rules or unless otherwise ordered or permitted by the Office the following provisions shall govern:

1. A petition filed on behalf of a cable television company shall be served by such company or its agent or attorney upon each respondent named in such petition.

2. A petition originating a proceeding filed by a party other than a cable television company shall be served by the Secretary of the Board upon each respondent named in such petition.

3. Every other pleading, including all motions, answers, replies, notices, briefs and other papers, shall be served by the party filing the same (whether



a cable television company or not) on all other parties of record concurrently with or prior to the filing thereof.

4. Except when service is made by the Secretary, proof of service shall be by affidavit; by certificate of counsel or by acknowledgment of service, in every case indicating the parties served and the manner of service. Such proof of service shall be filed at the time of filing the pleading, or immediately after.

5. Whenever public notice is required, the same shall be at the expense of the party directed to give such notice, and proof of such public notice shall be made and filed in accordance with paragraph 4. of this subsection.

#### **14:17-5.7 Valid service**

(a) Unless otherwise directed by the Board or Office, service of pleadings, notices, decisions, orders and other papers shall be deemed valid if made by delivering one copy to each party or his attorney of record in person or depositing it in the United States mail first class, postage prepaid, directed to the party or his attorney of record at his post office address. Unless otherwise provided, when any party has appeared by attorney, service upon such attorney shall be deemed valid service upon the party of all future pleadings, until notice of withdrawal or dismissal of such attorney is received in writing by the Secretary of the Board through the Office and served on all parties of record to the proceeding.

(b) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the serving of a notice or other paper upon him, and notice or paper is served upon him by mail, three days from the date of mailing shall be added to the prescribed period.

#### **14:17-5.8 Withdrawal of a petition or dismissal of a proceeding**

(a) A petition may be withdrawn without order of the Board by filing a notice of withdrawal at any stage of the proceeding prior to the filing of the report and recommendations of the Director or the hearing examiner or prior to the entry of the Board's decision or other final disposition of the proceeding. A proceeding may also be terminated by filing a stipulation signed by all parties who have appeared in the proceeding prior to the entry of the Board's decision or order disposing of the proceeding. However, if the Board finds that the public interest so requires, the Board by order may continue such proceeding.

(b) The Board may without request from or consent of the party instituting the proceeding dismiss the same for good cause shown upon recommendation of the Director on its own motion or motion of any party.

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(c) Unless otherwise specified or ordered, a withdrawal or dismissal under this rule shall be without prejudice.

### 14:17-5.9 Verification

All pleadings initiating a proceeding or otherwise seeking affirmative relief shall be verified except for those matters brought upon the Board's own motion or the motion of the Attorney General of the State of New Jersey.

### 14:17-5.10 Changes in facts or circumstances

(a) Whenever, subsequent to the date of a pleading, there is any significant change in respect to the information required by these rules to be included or shown in the pleading or with respect to any other relevant matter, the party who filed the pleading shall promptly file an amendment showing or explaining the changed facts or circumstances.

(b) The filing of such amendment shall be considered a new filing as of the date of its filing unless otherwise ordered or permitted by the Board or Office.

## SUBCHAPTER 6. PETITIONS

### 14:17-6.1 Form and content of petitions

(a) The form and content of petition shall be as set forth below:

1. All petitions shall comply with the provisions of Subchapter 5 (Pleadings Generally) of this Chapter to the extent applicable; shall clearly and concisely state the facts and relief sought; shall cite by appropriate reference the statutory provision or other authority under which the Office's action is sought; and, in addition, shall contain such information or statements as are required by provision of the statute and the applicable provision of these rules, or such other rules adopted by the Office with the approval of the Board or orders adopted by the Board pertaining to certain petitions, or as may be required by the Board in a particular proceeding.

2. Special requirements with respect to certain types of petitions are set forth in Section 6 *et seq.* of this Subchapter.

3. Petitions directed to particular respondents shall conclude with a direction that the respondent satisfy the prayer of the petition or file and serve an answer within 20 days in accordance with these rules.

### 14:17-6.2 Applications to other regulatory bodies

(a) Where the relief sought in a petition also requires the approval or authorization of any other state or Federal regulatory body, the petition to the

Office shall so state and include the following:

1. The current status of such application;
2. If the application to the other regulatory body or bodies has already been filed, a copy of each such application shall be attached to the petition to the Office, together with a copy of any order or certificate issued relating thereto.
3. If such an application or an amendment thereof is filed with another state or Federal regulatory body subsequent to date of filing with this Board but prior to its determination, three copies of such application or amendment thereof, together with three copies of any order or certificate issued relating thereto, shall be filed with the Office and served upon other parties of record.

#### **14:17-6.3 Joinder of request for relief**

(a) A petitioner may join in a single petition more than one independent or alternative requests for relief, subject, however, to the payment of the statutory filing fees applicable to each of the approvals sought.

(b) The Office with the approval of the Board may in its discretion sever matters so joined for hearing and determination or take such other action as may be in the public interest.

#### **14:17-6.4 Procedure of Office on filing of petition**

(a) If in the opinion of the Office the petition complies substantially with these rules and appears on its face to state a matter within this Office's jurisdiction, any necessary copies have been received and fees paid, the Director shall file same with the Secretary of the Board.

(b) Unless otherwise directed by the Office, petitions and subsequent pleadings shall be served by the parties as provided for in N.J.A.C. 14:17-5.6 and 5.7.

(c) If within the time allowed for answer the respondent makes an offer of satisfaction which is accepted by the petitioner, such offer and acceptance signed by the parties or their attorneys shall be filed with the Office and if not disapproved by the Office, proceedings closed without further action.

(d) When the respondent has not satisfied the petition, the Director may schedule a hearing thereon and issue such recommendations to the Board as the facts and circumstances appear to require.

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### 14:17-6.5 *Ex parte* or emergency relief

(a) If a petition seeks *ex parte* action or the granting of emergency relief pending full hearing, it shall set forth the necessity or emergency for such requested action, and must be supported by affidavits sufficient to make out a *prima facie* case.

(b) The party presenting such a petition shall also present a draft of the decision or order proposed.

### 14:17-6.6 Petitions for certificate of approval

(a) Petition for certificate of approval shall conform to the provisions of Subchapter 5 of this Chapter and the previous Sections of this Subchapter, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. A certified copy of the municipal consent involved including the terms and conditions relating thereto;
2. Proof that all statutory requirements relating to the obtaining of the municipal consent have been met;
3. Reason why petitioner believes that the municipal consent is necessary and proper for the public convenience and will properly conserve the public interest.

(b) In cases where the petition involves the arbitrary refusal by a municipality to grant a municipal consent, pursuant to N.J.S.A. 48:5A-1 *et seq.*, the petition shall, in addition to the requirements of subsection (a) of this Section to the extent applicable, also provide proof that the municipal consent is being arbitrarily withheld.

### 14:17-6.7 Petition for approval of the modification or amendment of the terms or conditions of a municipal consent upon which a certificate of approval is based

(a) Petitions for the approval of the modification or amendment of the terms or conditions of a municipal consent upon which a certificate of approval is based shall conform to the provisions of Subchapter 5 of this Chapter and Sections 1 through 5 of this Subchapter to the extent applicable, and shall in the body thereof, or attached exhibits, also provide the following information:

1. A certified copy of the existing municipal consents including the terms and conditions related thereto;
2. A statement describing the proposed modifications or amendments to the said terms or conditions with reasons for the changes proposed;

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3. The names of all cable television companies operating in the areas contiguous to that served by the petitioner;

4. A copy of the agreement between the municipality and the petitioner stating that the changes are acceptable;

5. Proof of service of the petition upon all cable television companies referred to in paragraph 3. of this subsection.

**14:17-6.8** Petitions for approval of the transfer of certificates of approval

(a) Petitions for approval of the transfer of certificates of approval shall conform to the requirements of Subchapter 5 of this Chapter and Sections 1 through 5 of this Subchapter to the extent applicable, and shall in the body thereof or in the attached exhibits also provide the following information:

1. A copy of the certificate of approval issued by the Board;

2. A copy of the municipal consent for the municipality served under the certificate;

3. A map showing current service being supplied;

4. The names of all cable television companies operating in areas contiguous to that served by transferor under the consent involved in the application under this Section;

5. The schedule of rates charged for the service involved.

6. The names of the officers of the transferee or the names of its owners or partners, and the extent of their interest;

7. A copy of the assignment, contract, lease or other agreement by which the transfer is proposed to be made;

8. Affidavits by the transferor and the transferee as to the existence of any judgments, tax claims, of Federal, State, municipal governments or liens against the transferor or property, or equipment involved in, or associated with the proposed transfer;

9. A statement of the financial condition of the transferee and of its technical qualifications to operate and maintain the cable television operation and to provide safe, adequate and proper service;

10. Proof of service of the petition upon all cable television companies referred to in paragraph 4. of this subsection.

**14:17-6.9** Petitions for renewal of certificate of approval

(a) Petitions for renewal of a certificate of approval shall conform to the provisions of Subchapter 5 of this Chapter and Sections 1 through 5 of this

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Subchapter to the extent applicable and shall, in the body thereof, or in attached exhibits, also provide the following information:

1. A copy of the certificate of approval issued by the Board;
2. A copy of the original municipal consent and evidence of the renewal or reissuance thereof;
3. In cases where the municipality has not acted on an application for renewal, the petitioner shall include a statement to that effect together with proof that application has been made;
4. Proof that petitioner has been operating its cable television system in conformance with the rules, regulations and orders of the Office, and is able to continue to do so.

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### Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance or lease of real or personal property or the granting of an easement, or like interest therein as required by law shall conform to provisions of Subchapter 5 of this Chapter and Sections 1 through 5 of this Subchapter to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. A copy of a separate sheet or sheets designated Schedule "A" containing a description of the property. For real property, show the location by municipality and county, a metes and bounds or other adequate description of the property and rights of any, reserved by the cable television company. For personal property include sufficient information to identify the property adequately;
2. Name of transferee or lessee, the consideration or rental and method of payment thereof, and rights reserved by the transferor or lessor;
3. A copy of the written agreement;
4. A certified copy of the resolution of the Board of Directors or other authority authorizing the transfer or lease;
5. Purpose for which property was originally acquired, the date of acquisition, the use made of the property, the date when and circumstances under which it ceased to be useful for cable television purposes, the present use, the possible prospective use, if any, and the identity of the official or officials who determined that the property is not now nor prospectively required or useful for cable television purposes;
6. The basis of the price or rental: Assessed valuation, appraisal, comparable sales, or other basis. Is it the best price or rental obtainable?

Attach appraisal, if any as exhibit;

7. Does the proposed consideration or rental represent the fair market value of the property to be conveyed or leased?

8. What steps were taken to put this property on the market and accomplish its sale or lease? Was it advertised? How? If bids were solicited, give names of bidders and the consideration or rental offered;

9. Is there any relationship between the parties other than transferor and transferee, or lessor and lessee? What is that relationship, if any?

10. The actual cost at date of acquisition, and the cost and nature of any improvements;

11. The amount at which the property is now carried on the cable television company's books;

12. Copies of proposed journal entries to record the transaction when the consideration is more than \$20,000;

13. If property is income producing, give details. Does petitioner pay all carrying charges, including taxes? What is the assessed valuation?

14. If the property is encumbered by any mortgage, describe the mortgage, state the amount thereof, and the time required to obtain a release;

15. When the property to be sold or leased has a net book cost or fair market value of more than \$100,000 the petitioner must attach to the petition copies of the advertisement required by paragraph 2. of this subsection, and proof of publication.

(b) Where the Board's approval of sale or lease is required by law and the property has a net book cost or fair market value of more than \$100,000 the property shall be advertised for sale or lease at least twice, one week apart, in a daily newspaper published or circulated in the county in which the property is located, within 90 days immediately prior to the filing of the petition for the approval of the sale or lease, except that advertising shall not be required for sale or lease of property for cable television purposes to another cable television company or other person or company subject to any jurisdiction of this Office or Board, and the advertisement shall contain the following:

1. A description of the property to be sold or leased and improvements thereon. In the case of land, this shall include the street address, if any, and a description sufficient to identify the location of the property and its approximate size, which may be a description by metes and bound or lot and block numbers;

2. The place where the property is located or may be inspected, together with the street address, if any;



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3. Conditions of the sale or lease, if any, together with a provision that the cable television company may reject any or all bids;

4. A statement that the sale or lease is subject to the approval of Office of Cable Television, Board of Public Utility Commissioners;

5. A statement of the place and final date of submitting sealed bids which shall not be less than ten days after publication of the second advertisement together with a statement of the time and place of the opening of said bids, which shall not be more than five days following the final date submitting bids, at a place in New Jersey.

6. A sealed bid, in accordance with the requirements of paragraph 5. of this subsection, must be submitted by a prospective purchaser or lessee, except that an offer or agreement to purchase or lease in writing received by the cable television company or executed before the first date of advertising, and still in effect at such date, shall be considered as if it were a sealed bid, provided such offer or agreement in writing meets all other condition or sale or lease, if any, included within the advertising.

(c) In addition to any other transactions not requiring approval or which on their merits may be deemed to be in the ordinary course of business, any lease, grant or permission by a cable television company to occupy or use its real property or any interest therein, which is terminable at the option of the cable television company upon notice not to exceed 90 days, and any release, by quitclaim deed or otherwise by any cable television company of any lease, easement or permission to occupy or use real property, shall be deemed to be in the ordinary course of its business and neither notice to the Office, nor

(d) In addition to any other transactions which on their merits may be deemed to be in the ordinary course of business, the sale, lease, encumbrance or other disposition by any cable television company of such of its property or an interest therein as is hereinafter set forth, may be consummated without petition to the Office for approval, provided the cable television company shall have given written notice thereof to the Office, to be received not less than 15 days prior to the effective date of the proposed sale, lease, encumbrance or other disposition of such property:

1. The sale of personal property having a net book cost and sale price not in excess of \$50,000 and which is no longer used by or useful to the cable television company;

2. Except as hereinabove provided, the lease or permission to use or occupy real property or any interest therein having a net book cost not in excess of \$100,000 and a net rental not in excess of \$10,000 per annum;

3. The sale or release of real property, or any interest therein, not used by or useful to the cable television company and having a net book cost and

petition for its approval, shall be required with respect thereto.



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sale price not in excess of \$100,000.

(e) On expiration of the notice period and on payment of the required fee the Secretary will certify on a true copy of the notice, to be furnished to the Board, that such sale, lease or release is deemed by the Board to be in the ordinary course of business and within the statutory *proviso*. Such notice shall contain, to the extent applicable, the following:

1. Name of transferee or lessee, the consideration or rental and method of payment thereof, and rights, of any reserved by the transferor or lessor;
2. A copy of the agreement or lease and a map of the real property;
3. A statement that the proposed consideration or rental represents the fair market value of the property to be conveyed, or the fair rental value of the property to be leased, giving the basis for the conclusion reached;
4. A statement of any relationship between the parties other than transferor and transferee, or lessor and lessee, or a statement that there is no such other relationship, as the case may be;
5. The amount at which the property is carried on the cable television company's books;
6. A statement as to whether or not the property is income producing and if so, details as to whether the petitioner pays all carrying charges, including taxes. In addition, such statement shall include the assessed valuation of the property;
7. A statement, in the case of a proposed sale, that the property is not used by or useful to the cable television company, and in the case of a proposed lease, grant or permission, that the transaction will not compromise the ability of the cable television company to render service;
8. A verification by a properly authorized officer, partner or proprietor of the statements contained in the notice;
9. A blank space of three inches shall be provided at the bottom of the first page of the notice for the Board's certification.

(f) The Board may, within the aforesaid 15-day notice period, or at any time prior to the actual consummation of the transaction, suspend the provisions of this rule and require the filing of a petition for the approval of the sale, lease, encumbrance or other disposition.

**14:17-6.11 Petitions for authority to change depreciation rates**

(a) Petitions for the approval of a change or variation in the rates of depreciation used shall conform to the provisions of Subchapter 5 of this Chapter and Sections 1 through 5 of this Subchapter to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following